IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**SECOND APPEAL NO.479 OF 2006**
**WITH**
**CIVIL APPLICATION NO. 2135 OF 2005**

| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
|---|---|

Mr. Kuldeep S. Patil for the appellant.

Mr. Satyajeet Ligade for the respondent.

**CORAM : DR. S. RADHAKRISHNAN, J.**

**DATE : 19TH JUNE, 2006**

P.C.

. Heard learned Counsel for the appellant and the respondent.

2. Appeal is admitted.

3. The learned Counsel for the appellant points out that the appellant

had succeeded before the trial Court and suit was dismissed. Whereas, before the Lower Appellate Court the matter was decided exparte against the appellant. The learned advocate for the appellant submitted that the Lower Appellate Court has not given a fair opportunity to represent the case. The learned Counsel for the respondent fairly conceded that the appellant ought to have been given a fair opportunity to defend the same before the Lower Appellate Court. After considering the aforesaid facts and circumstances of the case, impugned order dated 2nd March, 2002, passed by the Learned Additional District Judge, Pandharpur in R.C. Appeal No. 172/1993 stands set aside and the aforesaid Appeal is restored to the file of the Learned Additional District Judge Pandharpur. Since the appeal is of the year 1993, hearing of the above appeal is expedited. The learned Additional District Judge, Pandarpur is directed to decide the

appeal expeditiously, preferrably by the end of 30th November, 2006.

4. Needless to say while hearing the above appeal the learned District Judge shall not be influenced by any manner by the observations made in the judgment and order dated 2nd March, 2002.

5. Both the learned Counsel for the appellant and respondent have agreed that they will appear before the said Additional District Judge, Pandharpur on 10th July, 2006 for obtaining appropriate directions with regard to the final hearing of the appeal.

6. Appeal is accordingly allowed, with no order as to costs.

6. In view of the above, Civil Application stands dismissed.

(DR.S. RADHAKRISHNAN, J.)